



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 L54400000.EU0000 LVCLG13G5160 13XL5017AR]

Notice of Realty Action: Recreation and Public Purposes Classification and Conveyance of Public Land in Doña Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for conveyance about 125 acres of public land in Doña Ana County, New Mexico, under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended. The City of Las Cruces (City) has applied to obtain patent on its current landfill R&PP leases NMNM 000014 and NMNM 018155 each of 40 acres with a history of landfill use. Additionally, the City has applied to obtain patent of 45 acres (NMNM 132849) of land adjacent to the leases. The resulting patent would total 125 acres. As a separate transaction, the City filed an application for the conveyance of the federally owned mineral interests in the 125-acre parcel of land described in this notice. The BLM is processing the mineral application under Section 209 of the Federal Land Policy and Management Act (FLPMA).

DATES: The BLM must receive written comments regarding the proposed classification or conveyance on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send written comments concerning the proposed conveyances to the District Manager, BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Anthony Hom, Realty Specialist, at the address above, or by telephone 575-525-4331, or email to ahom@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The City has requested that the BLM patent to the City two existing 40-acre landfill R&PP leased parcels, and 45 acres of additional adjacent land (125 acres total) so that the City may continue to manage the 125 acres in accordance with a landfill closure plan approved by the New Mexico Environment Department. The parcels of land are described as:

New Mexico Principal Meridian, New Mexico

T. 23 S., R. 2 E.,

sec. 11, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$,
 $N\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$.

The area described contains 125 acres.

The land is not required for any other Federal purpose and it has been determined that the proposed action conforms to the Mimbres Resource Management Plan, approved December 1993.

The conveyance, if completed, would be subject to limitations prescribed by law and regulations. Prior to patent issuance, a holder of any right-of-way within the parcels may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable, or an easement. In accordance with regulations at 43 CFR 2807.15(b), the BLM notified the valid existing right-of-way holders by letter of their ability to convert their rights-of-way to perpetual rights-of-way or easements. None of the holders requested conversion of their current authorizations, so the BLM will continue to administer their rights-of-way as authorized after the conveyance.

The conveyance would also be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior including, but not limited to, 43 CFR part 2743 and would be subject to the following terms, conditions, and reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);
2. All minerals of known mineral value shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe. (Note, however, that the mineral estate may be separately patented to the R&PP applicant if a separate application under Section 209 of FLPMA is approved);
3. Valid existing rights;
4. A right-of-way for a telephone/telegraph line granted to Qwest Corporation, its

successors or assigns, by right-of-way NMNM-61211;

5. A right-of-way for a 24/13.8 kV electric transmission line granted to El Paso Electric Company, its successors or assigns, by right-of-way NMNM-83958;
6. No portion of the land patented shall revert to the United States under any circumstance. In addition, the patentee will comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR part 302);
7. Specifically in regards to the 45-acre parcel, which has never been leased or conveyed out of the public lands, the investigation by the authorized officer discloses no hazardous substances as listed in 43 CFR 2743.2(a)(6). However, the history of the parcel indicates that household hazardous waste may have been disposed;
8. Specifically in regards to the two 40-acre parcels, which have been under lease, the investigation by the authorized officer shows that the involved lands contain only those quantities and types of hazardous substances consistent with household waste. The authorized officer has reasonable basis to believe that the contents of the leased disposal site do not threaten human health and the environment as listed in 43 CFR 2743.3(a)(4);
9. Specifically in regards to the two 40-acre parcels, the lands have been used for disposal of solid waste. The land may contain small quantities of commercial hazardous waste and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (43 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Based on the review of the Phase I

Environmental Site Assessment (ESA) signed on April 3, 2013, the authorized officer reached the following conclusions: (1) Although the subject site is a closed Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) landfill, this Phase I ESA has revealed no Historic Recognized Environmental Conditions, which in the past may have been considered a Recognized Environmental Condition. However, the landfill is in year 8 of its 30-year monitoring period, and is in corrective action with the New Mexico Environmental Department for an expanding groundwater contaminant plume; (2) The ESA is in conformance with the scope and limitation of the American Society for Testing and Materials ASTM E1527-05 and satisfies current BLM requirements; and (3) No further inquiry is needed for purposes of all appropriate inquire; therefore this landfill is suitable for disposal in accordance with CERCLA 120(h); and

10. An indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the land will be included in the patent when issued.

Upon publication of this notice in the Federal Register, the land described above will be segregated from all other forms of appropriation under the public land laws, including the United States general mining laws, except for conveyance under the R&PP Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. Interested parties may submit written comments on the suitability of the land for a landfill. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land,

whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Interested persons may submit written comments regarding the specific use proposed in the application and plan of development, whether the BLM followed appropriate administrative procedures in reaching the decision to convey under the R&PP Act.

Documents related to this action are on file at the BLM, Las Cruces District Office at the address in this section and may be reviewed by the public upon request.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Only written comments submitted to the District Manager, BLM Las Cruces District Office, will be considered properly filed.

Any adverse comments regarding this action will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2743 and 43 CFR 2920

Aden L. Seidlitz,

Associate State Director.

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